

§ 272.9 Selection of a carrier to provide essential air service and payment of compensation.

(a) If the Department finds that essential air service will not be maintained to an eligible Freely Associated State place, the Department shall invite applications to provide the service required to maintain essential air service to such place.

(b) If the Department determines that essential air service will not be provided to such place in the absence of the payment of subsidy compensation to a carrier or carriers, the Department shall determine the compensation necessary, considering all other service to such place in accordance with § 272.6(a)(3), to maintain the level of essential air service determined by the Department under § 272.5, and the times and manner of the payment of such compensation.

(c) The compensation determined by the Department to be necessary to maintain essential air service to such place shall be paid by the Department of Interior out of funds appropriated for that purpose, to the carrier or carriers selected by the Department.

(d) The Department shall continue to specify compensation to be paid to a carrier or carriers under this section only as long as the Department determines that essential air service will not be provided to the Freely Associated State in the absence of the payment of such compensation.

(e) Except as permitted in paragraph (f) of this section, the Department shall select a U.S. air carrier or carriers to provide essential air service for compensation.

(f) The Department may select a Freely Associated State Air Carrier, holding a foreign air carrier permit issued in accordance with subpart D of part 211 of this chapter, to provide essential air service for compensation, only if—

(1) No U.S. air carrier is available to provide the required essential air service; or

(2) The compensation necessary for the provision of the required essential air service would be substantially less than the compensation necessary if such essential air service were to be provided by a U.S. air carrier.

(g) Any order of the Department selecting a Freely Associated State Air Carrier to provide such essential air service shall be submitted to the President of the United States not less than 10 days prior to its effective date and shall be subject to stay or disapproval by the President.

(h) Among the criteria that will be considered by the Department in its determination of the carrier or carriers to be selected to perform the required essential air service are:

(1) The desirability of developing an integrated linear system of air transportation whenever such a system most adequately meets the air transportation needs of the Freely Associated States concerned;

(2) The experience of the applicant in providing scheduled air service in the vicinity of the Freely Associated States for which essential air service is proposed to be provided;

(3) The amount of compensation that will be required to provide the proposed essential air service;

(4) The impact of the proposed service on service provided to other Freely Associated State points; and

(5) The views of the Governments of the Freely Associated States concerned.

(i) The Department may from time to time, on its own motion, or upon application of any carrier or government, review and change its selection of a carrier to provide essential air service, or its determination as to the compensation necessary to provide such essential air service.

(j) All applications or other documents filed or issued in proceedings under this section shall be served upon the President of the Freely Associated State concerned and the Authorities designated by that Government(s) in accordance with Article II, paragraph 10, of the Federal Programs and Services Agreement supplemental to the Compact of Free Association, and such Government shall be a party to any such proceeding. In reaching its determination, the Department will carefully consider any views of such Government that have been submitted.

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